

Message Text

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ACTION DLOS-04

INFO OCT-01 IO-13 ISO-00 ACDA-07 AGR-05 AID-05 CEA-01

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EB-07 EPA-01 ERDA-05 FEAE-00 FMC-01 TRSE-00 H-02

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R 271824Z APR 76

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TO SECSTATE WASHDC 7112

LIMITED OFFICIAL USE SECTION 1 OF 2 USUN 1764

FROM LOS DEL

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: LOS COMMITTEE II SESSION 21 APRIL; ARTS 96-107

SUMMARY: C-II COMPLETED CONSIDERATION OF HIGH SEAS ARTICLES, MANAGEMENT AND CONSERVATION OF LIVING RESOURCES ON HIGH SEAS, AND BEGAN DEBATE ON PART VI: LAND LOCKED STATES. PERU AMENDMENTS TO HIGH SEAS ARTICLES CONTINUE TO BE DIRECTED AT INCREASING COASTAL STATE RIGHTS IN THE ECONOMIC ZONE. CANADA AMENDMENT WAS IN SUPPORT OF ITS PROPOSALS EARLIER TO GIVE COASTAL STATE FISHERIES MANAGEMENT REGIME AN OPERATIVE EFFECT IN ADJACENT HIGH SEAS AREAS. THE AMENDMENT RECEIVED TERRITORIALIST SUPPORT. NETHERLANDS AMENDMENT, WHICH OFFSETS CANADA PROPOSAL, RECEIVED US, SOV AND WEO SUPPORT. LAND LOCKED DEBATE REPORTED SEPTEL. END SUMMARY.

1. DEBATE OPENED ON PERU AMENDMENT ON NEW ARTICLE 96 BIS

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WHICH READS AS FOLLOWS: QTE IF, IN THE CASES OF THE ACTS RE-

REFERRED TO IN ARTICLES 94 AND 96, WARSHIPS OF A STATE SHOULD ENTER THE EXCLUSIVE ECONOMIC ZONE OF ANOTHER STATE, THEY SHALL:

A) COMMUNICATE SUCH CIRCUMSTANCE TO THE COMPETENT AUTHORITIES OF THAT STATE; B) REQUEST THEIR COOPERATION, WHEN NECESSARY, FOR THE PURPOSES ENVISAGED; C) REPORT TO THEM ON THE MEASURES TAKEN WITH REGARD TO THE SHIPS WHICH HAVE COMMITTED THE ACTS IN QUESTION; D) ADOPT OTHER MEASURES AS MAY BE REQUIRED IF THE CONSEQUENCES OF SUCH ACTS EXTEND TO THAT STATE. UNQTE.

2. ARIAS-SCHRIEBER SAID HIS PROPOSAL IS DESIGNED TO INCREASE COOPERATION BETWEEN WARSHIPS AND THE COASTAL STATE. IT WOULD HELP PREVENT CRIMES SUCH AS PIRACY AND SMUGGLING OF DRUGS. HE SAID IT GAVE NO SPECIAL RIGHTS TO COASTAL STATES OR THIRD PARTIES AND WAS NOT AN ATTEMPT TO TERRITORIALIZE THE ECONOMIC ZONE.

3. THE AMENDMENT WAS SUPPORTED BY BRAZIL, ECUADOR, OMAN, NIGERIA, ROMANIA, CONGO, GAMBIA, MOROCCO, SIERRA LEONE, AND URUGUAY. THERE WERE NO COMMENTS IN OPPOSITION.

4. (A) ART. 97 (HOT PURSUIT), GAMBIA, REFERRING TO THE NECESSITY OF DEALING WITH THE ISSUE OF SANCTUARY, PROPOSED THE FOLLOWING ADDITION TO PARA 3: QTE COMMA EXCEPT IN CASES WHERE AGREEMENTS REACHED IN ACCORDANCE WITH THE PROVISIONS OF THIS CONVENTION BETWEEN NEIGHBORING STATES IN THE REGION OR SUB-REGION PERMIT THE CONTINUATION OF HOT PURSUIT WHEN THE SHIP ENTERS THE EXCLUSIVE ECONOMIC ZONE OR TERRITORIAL SEA OF ITS OWN STATE OR A THIRD STATE UNQTE. THIS WAS SUPPORTED BY ECUADOR, SIERRA LEONE, KENYA, IVORY COAST, ROMANIA, CONGO, AND BRAZIL. (B) PERU OFFERED AMENDMENT REPLACING PARA 3; QTE THE RIGHT OF HOT PURSUIT CEASES AS SOON AS THE SHIP PURSUED ENTERS THE EXCLUSIVE ECONOMIC ZONE OR THE TERRITORIAL SEA OF ITS OWN STATE OR OF A THIRD STATE UNQTE. THIS WAS SUPPORTED BY ECUADOR, SIERRA LEONE, KENYA, IVORY COAST, BRAZIL, CONGO, ROMANIA AND GUATEMALA. (C) URUGUAY SAID EXCLUSIVE ECONOMIC ZONE (EEZ) SHOULD REPLACE QTE CONTIGUOUS ZONE UNQTE WHEREVER IT APPEARED IN THE ARTICLE. HE PROPOSED ADDING QTE OR EEZ UNQTE TO PARA 6(B) SO IT WOULD READ QTE ... ARREST OUT-LIMITED OFFICIAL USE

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SIDE THE TERRITORIAL SEA OR ECONOMIC ZONE THAT THE SHIP... ETC UNQTE. HE PROPOSED ADDING QTE OF ANOTHER STATE UNQTE TO PARA 7 SO PARA READS QTE...PORTION OF THE EEZ OF ANOTHER STATE OR THE HIGH SEAS...ETC UNQTE. HE PROPOSED ADDING TO PARA 8 THE WORDS QTE OR EEZ UNQTE SO PARA WOULD READ QTE...OUTSIDE THE TERRITORIAL SEA OR EEZ IN CIRCUMSTANCES WHICH...ETC UNQTE. THIS WAS SUPPORTED BY KENYA, PERU, ECUADOR, IVORY COAST, GUATEMALA, CONGO AND BRAZIL.

(D) SWEDEN SAID HE FELT PARA 2 CAUSED HIM SOME TROUBLE. NO PROPOSALS WERE OFFERED BUT HE SAID IT LEFT UNANSWERED THE QUESTION OF THE NATURE OF THE INFRACTION OF RULES IN THE EZ WHICH MAY GIVE RISE TO HOT PURSUIT. HE SAID THE GAMBIA AND PERU AMENDMENTS LIMIT RIGHT OF HOT PURSUIT. AND THIS WAS GOOD, BUT PARA 2 STILL LEAVES OPEN THE QUESTION OF WHEN HOT PURSUIT CAN BE STARTED FOLLOWING INFRACTIONS IN THE ZONE.

(E) UK PREFERS ART. 97 AS IS BUT ADDED THAT GAMBIA PROPOSAL TO REFER TO REGIONAL AGREEMENTS IN PARA 3 HAS MERIT.

(F) ALGERIA SAID THAT A TIE EXISTED BETWEEN ARTS. 73 AND 97; THE INTERPRETATION OF THE EARLIER AFFECTS THE LATER SO ALGERIA RESERVES ITS POSITION ON BOTH.

(G) MEXICO SAID ADDITION OF QTE EEZ UNQTE TO PARA 8 COULD BE DANGEROUS. GENEVA CONVENTION PREVENTS ABUSES OF HOT PURSUIT BY PROVIDING COMPENSATION FOR VESSEL ILLEGALLY DETAINED OUTSIDE TERRITORIAL SEA. THE ADDITION NOW OF EEZ MAY MEAN NO COMPENSATION FOR ABUSE OUT TO 199 MILES. THIS HE SAID, COULD SERIOUSLY HINDER NAVIGATION. PERU SAID THE ANSWER WAS NOT TO DELETE EEZ FROM ARTICLE BUT TO PROVIDE FOR COMPENSATION FOR ILLEGAL DETENTION AND DAMAGE EVERYWHERE. THIS WAS SUPPORTED BY URUGUAY, AND CUBA ANNOUNCED SUPPORT OF MEXICO.

5. ART. 98 (MARINE ENVIRONMENT) WAS DEFERRED UNTIL C-III COMPLETED ITS DELIBERATIONS ON THE ISSUE. CANADA URGED CHAIRMEN TO CONSULT TO ENSURE THE ISSUE IS DEALT WITH.

6. ART. 99 (PIPELINES). ITALY, REFERRING TO LIABILITY FOR DAMAGE IN ART. 101 AND DIFFICULTY OF KNOWING WHERE SUBMERGED PIPELINES ARE LOCATED PROPOSED FOLLOWING AMENDMENT AS ART. 99 BIS QTE DUE AND ADEQUATE PUBLICITY OF LIMITED OFFICIAL USE

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LAYING, AND EXACT LOCATION OF SUBMARINE CABLES AND PIPELINES, SHALL BE PUBLISHED ON NAVIGATIONAL CHARTS AND COPIES OF SUCH CHARTS SHOULD BE DEPOSITED WITH UN SECRETARY GENERAL UNQTE. LIBERIA AND PERU SUPPORTED PROPOSAL. CANADA OBJECTED WITHOUT EXPLANATION. FRG PROPOSED DELETION OF WORDS QTE BEYOND THE CONTINENTAL SHELF UNQTE FROM PARA 1.

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FROM LOSDEL

7. ART. 100. NO COMMENTS.

8. ART. 101 ITALY SAID DAMAGE TO PIPELINES IN EZ WAS COVERED IN ART. 47 AND IN HIGH SEAS IN THIS ART., BUT NOTHING COVERS CONTINENTAL SHELF. HE PROPOSED CHAIR CONSIDER THIS OMISSION. PERU SUGGESTED QTE HIGH SEAS AND OTHER ZONES UNQTE. GAMBIA PROPOSED ADDING COMPENSATION FOR LOSS OF CONTENT OF DAMAGED PIPELINE.

9. ART. 102. NO COMMENTS.

10. SECTION 2 OF HIGH SEAS. MANAGEMENT AND CONSERVATION OF THE LIVING RESOURCES.

(A) ART. 103. CANADA INTRODUCED THREE AMENDMENTS WHICH LA POINTE SAID WOULD IMPROVE THE TEXT AND ENSURE THAT CONFLICT WITH FISHING IN THE ECONOMIC ZONE WOULD BE MINIMIZED.

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THE AMENDMENTS ARE AS FOLLOWS:

QTE NEW ARTICLE. THE PROVISIONS OF THIS SECTION SHALL

BE WITHOUT PREJUDICE TO THE PROVISIONS OF ARTICLE 52,
PARA 2, AND ART. 53, 54 AND 55.

ART. 103. ALL STATED HAVE THE RIGHT FOR THEIR NATIONALS
TO ENGAGE IN FISHING ON THE HIGH SEAS SUBJECT TO: (A)
THEIR TREATY OBLIGATIONS; (B) THEIR OBLIGATIONS UNDER,
INTER ALIA, ART. 52, PARA 2, AND ART. 53 AND
54. (C) THE RIGHTS AND DUTIES AS WELL AS THE INTERESTS
OF COASTAL STATES PROVIDED FOR, INTER ALIA, IN ARTICLE 52,
PARA 2, AND ARTICLES 53 AND 54. (D) THE PROVISIONS
OF THIS SECTION. UNQTE

B. TUNISIA PROPOSED NEW AMENDMENTS AS PARA 2, QTE
FOR THIS PURPOSE STATES MAY COORDINATE THEIR EFFORTS IN
THE MANAGEMENT AND CONSERVATION OF RESOURCES THRU RE-
GIONAL, SUB-REGIONAL OR GLOBAL ORGANIZATIONS EITHER IN
EXISTENCE OR TO BE CREATED UNQTE. KENYA STATED MERGER
OF TEXTS OF CANADA AND TUNISIA APPEARS POSSIBLE. SUPPORT
FOR BOTH ANNOUNCED BY UAE, PERU, MOROCCO, ICELAND, MEXICO,
NEW ZEALAND, ECUADOR, GUINEA, DOMINICAN REPUBLIC, CONGO,
NIGERIA, BRAZIL, CHINA, CHILE, CUBA, VENEZUELA, GUATEMALA,
YUGOSLAVIA, AUSTRALIA, SRI LANKA, NICARAGUA, TOGO,
ROMANIA, LIBYA, WESTERN SAMOA, GAMBIA, BAHAMAS, PORTUGAL
AND HAITI. THIS AMENDMENT WAS SUPPORTED BY PERU, UAE,
ICELAND, NORWAY, URUGUAY, ARGENTINA, GUINEA, BRAZIL,
COLOMBIA, LIBERIA, CHILE, MEXICO, SRI LANKA, GUATEMALA,
NIGERIA, VENEZUELA, TUNISIA, CONGO, WEST SAMOA, BARBADOES,
BAHAMAS, HAITI, HONDURAS, GABON, ROMANIA, CHINA AND
LIBYA.

C. NETHERLANDS PROPOSED DELETION OF WORDS QTE ART. 52,
53 AND 54 UNQTE FROM ART. 103 (B), AND
SUBSTITUTING QTE IN THIS CONVENTION UNQTE. THIS WAS SUPPORTED
BY US, FRG, IRELAND, DENMARK, ITALY, SOVS, FRANCE, JAPAN,
BELGIUM, UK, BULGARIA, GDR, POLAND AND HUNGARY.

11. CANADA'S AMENDMENT TO ART 104 READS: QTE ALL
STATES HAVE THE DUTY TO ADOPT, OR TO COOPERATE WITH OTHER
STATES IN ADOPTING, IN AREAS OF THE HIGH SEAS, SUCH MEA-
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SURES FOR THEIR RESPECTIVE NATIONALS AS MAY BE NECESSARY
FOR THE CONSERVATION OF THE LIVING RESOURCES OF THE HIGH
SEAS, AND, TAKING INTO ACCOUNT THE BEST EVIDENCE AVAILABLE
TO THEM, SHALL ENSURE THROUGH PROPER CONSERVATION AND
MANAGEMENT MEASURES THAT THE MAINTENANCE OF SUCH LIVING
RESOURCES IS NOT ENDANGERED BY OVER-EXPLOITATION. AS
APPROPRIATE, STATES SHALL COOPERATE THROUGH RELEVANT SUB-
REGIONAL, REGIONAL AND GLOBAL ORGANIZATIONS TO THIS END.
UNQTE.

12. ART. 105. NETHERLANDS PROPOSED REWORDING LAST SENTENCE AS FOLLOWS: QTE TO THIS END STATES SHALL COOPERATE THRU APPROPRIATE REGIONAL, SUB-REGIONAL OR GLOBAL FISHERIES ORGANIZATIONS. IF APPROPRIATE ORGANIZATIONS DO NOT EXIST, STATES SHALL COOPERATE IN THEIR ESTABLISHMENT. UNQTE THIS WAS SUPPORTED BY FRG, IRELAND, DENMARK, SWEDEN, BELGIUM, ITALY, GREECE, BOLIVIA, SOVS, POLAND, JAPAN, SPAIN, GDR, BULGARIA, UAE, UK, YUGOSLAVIA, FINLAND AND ROMANIA.

13. ART. 106. (A) GDR PROPOSED ADDITION THE FOLLOWING QUOTED TEXT TO PARA 1 (A) SO THAT PARA WOULD READ:...SPECIAL REQUIREMENTS OF

DEVELOPING COUNTRIES QTE AS WELL LL/GDS PREFERENTIAL TREATMENT IN HIGH SEAS BEYOND ECONOMIC ZONE UNQTE, AND TAKING INTO ACCOUNT, ETC. AFGHANISTAN PROPOSED FOR ABOVE AFTER DEVELOPING COUNTRIES QTE PARTICULARLY THE LL/GDS AMONG THEM UNQTE. NETHERLANDS PROPOSED INSERTING QTE SCIENTIFIC UNQTE SO PARA 1 (A) WOULD READ QTE...BEST SCIENTIFIC EVIDENCE AVAILABLE...ETC. UNQTE.

B. FOR GDR PROPOSAL; CZECHOSLAVAKIA, SOVS, POLAND, BYELORUSSIA, FINLAND, SWEDEN, HUNGARY, AUSTRIA AND ETHIOPIA.

C. FOR AFGHAN PROPOSAL: PERU, IRAN, CANADA, BYELORUSSIA, JAMAICA, SINGAPORE, TURKEY, JORDAN, BOLIVIA, BAHRAIN, ETHIOPIA AND CHINA.

D. FOR NETHERLANDS: CZECHOSLAVAKIA, JAPAN, SOVS, DENMARK, POLAND, FRANCE, BELGIUM, ITALY, BYELORUSSIA, FINLAND, LIMITED OFFICIAL USE

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SWEDEN, FRG, SINGAPORE, HUNGARY, UK AND AUSTRIA.

14. ART. 107 (WHALES). JAPAN, SOVS, POLAND, AND FRG SOUGHT DELETION. PERU AND CHILE SOUGHT TO RETAIN.

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